

APPEAL NO. 022139
FILED OCTOBER 9, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on August 6, 2002, the hearing officer found that the appellant (claimant) did not sustain an injury to any part of his body in the course and scope of employment on _____, and concluded that the claimant did not sustain a compensable injury on that date. The claimant has appealed this determination, contending, in essence, that his testimony that he sustained the injury about which he testified should be accepted. The file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The claimant testified that on _____, while operating a manufacturing machine, he injured his left shoulder trying to turn a wheel which was stuck and that he felt a sharp pain; that when he saw his family doctor on April 25, 2000, for shoulder pain, he related the history of the incident at work and the sharp pain, and that he did not want to file a claim for workers' compensation unless he had a serious injury; and that he cannot explain why the doctor's record of his visit stated that he had been having left shoulder pain for several months and made no mention of the work incident he described. The carrier's evidence reflected that the claimant's employment was suspended for three days in November 1999 for absence problems; that he was counseled in January 2002 for absence problems; that his employment was terminated for excessive absenteeism on April 24, 2002, and that he reported the claimed injury to his supervisor on May 24, 2002, when he returned to the plant for his paycheck.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.168(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The Appeals Panel, an appellate reviewing tribunal, will not disturb a challenged factual finding of a hearing officer unless it is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). It was for the hearing officer to determine the weight and credibility to assign the claimant's testimony.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **THE CONNECTICUT INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
800 BRAZOS
AUSTIN, TEXAS.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge